
PUBLIC AGENCY COMMENTS RECEIVEDCompleted by: Reena Mathew

Department of Public Works

No comments

Other Departments and Agencies

N/A

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The developer, Nextel Communications, is requesting a Conditional Use Permit to allow the location of eight (8) wireless communication antennas on the east and west façade of an existing maintenance building on the Evergreen Community College campus. There currently exists four Cingular wireless antennas on the north façade permitted by approved Conditional Use Permit CP96-096 and four Nextel wireless antennas on the south façade of this maintenance building permitted by approved Conditional Use Permit CP01-104. More recently, the Planning Commission approved CP04-106, which allowed nine wireless antennas on the rooftop of the Sequoia classroom building in the Evergreen Community College campus. The overall campus site is 100 gross acres in size. The specific project site for the proposed antennas is located within the campus site, across the street from single-family residences on Bowery Lane and Falls Avenue to the north. Additional single-family residences exist to the west of the project site, across San Felipe Road. There is a shopping center to the south and open space of the college campus is to the east.

In 1996, staff explored the issues of electromagnetic radiation to determine if emissions from antennas of the proposed type posed a public health concern. Staff found that the low-frequency, low-energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, Staff investigated reports that wireless communication transmission interfered with hearing aids, pagers, and other electronic devices. Staff determined that the reported interference resulted from cordless telephones and not from the antennas.

Project Description

The proposed project consists of the installation of eight (8) wireless communication antennas. As proposed, four antennas are to be mounted on the east and four antennas on the west facades. Each of the antennas is to be mounted 25 feet in height from grade, close to, but below the roof line of the maintenance building.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from environmental review under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA). This section of the guidelines provides an exemption for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time. The proposed use is for the addition of eight (8) wireless communication antennas mounted on the east and west facades of an existing building on an existing community college campus site. It is staff's opinion that the proposal conforms to the intent of this section of the CEQA Guidelines.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Public/Quasi-Public in that the collocation of building mounted wireless communication antennas on two elevations of the existing maintenance building does not impair the use of the existing community college.

The proposed use furthers the General Plan Urban Design Policy in that the use of building mounted antennas reduces the need for freestanding monopoles. The proposed building mounted antennas are to be painted with color to match the metal siding facades on which it they mounted, therefore minimizing public visibility.

ANALYSIS

The primary issues analyzed for the project include; 1) conformance to the Zoning Ordinance and 2) conformance to Council Policy 6-20, *Land Use Policy for Wireless Communications Antennas*

Conformance to the Zoning Ordinance Requirements

The maximum building height for structures in the R-1-5 Residence Zoning District, which includes most building-mounted structures and appurtenances, is 35 feet. The proposed project would not exceed this height limit since the antennas will be mounted 25.3 feet from grade.

Conformance to the Council Policy 6-20 for Wireless Communications Facilities

The proposed project conforms to key applicable elements of the Council policy, including the general antenna placement as well as height and setback recommendations from adjacent residential uses.

The Council Policy requires building-mounted antennas to be located as to minimize visual impacts and to be architecturally integrated into the structure to avoid additional visual clutter. The placement of the antennas below the roof line on the east and west facades of the maintenance building will help to conceal their presence. The west and east facades are the least visible sides of the building in that they do not immediately face the residential uses to the north of the project site and they are far from the main entrance which is located on its south side of the building. The presence of several mature trees along the north side of the maintenance building also provides a buffer for the proposed antennas, thus eliminating their visibility off site from the single-family residences to the north. In addition, the placement of the antennas on the maintenance building in itself minimizes the antennas visual impact since the maintenance building is not visible from the access road that leads to

classroom buildings on campus. Similarly, the maintenance building is not a site for substantial pedestrian or automobile traffic other than the maintenance staff. The proposed antennas are to be painted to match the existing color of the building, which will provide additional camouflage.

The proposed antennas conform to the policy guidelines for height in that the subject antennas conform to the San José 2020 General Plan and Zoning Ordinance height restrictions.

Setbacks from Residential Uses

As part of its criteria for selecting appropriate locations for Wireless Communication Antennas, the Land Use Policy for Wireless Communication Facilities requires that new wireless communications antenna (monopoles) should be located no closer than 35 feet from any property with a residential zoning designation. The applicant's proposal is consistent with the Council Policy in that the proposed wireless communication antennas would be located approximately a minimum of 30 feet from the northern property line, which borders Evergreen Creek. The separation of the antennas from the single family residential structures themselves is much more significant because a riparian corridor and riparian set back exist at the fringe of the residentially zoned land, providing a substantial distance from the residential property line and the residential structures. As a result, the proposed antennas would be placed approximately 500 feet horizontally from any residential uses.

PUBLIC OUTREACH

Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the subject site. The Planning Commission Agenda is posted on the City of San José website, which includes a copy of the staff report. Staff has been available to discuss the project with interested members of the public.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Public/Quasi-Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-5 Residence Zoning District.
3. The City Council Land Use Policy for Wireless Communications Facilities is applicable to this application.
4. The project proposes the installation of a total of eight (8) wireless communication antennas on the east and west facades of an existing community college maintenance building.
5. The proposed antennas will be located approximately 500 feet from residential uses.
6. A riparian corridor, with large, adjacent trees is located 50 feet between the subject building and nearest

residential uses.

7. Eight wireless communications antennas are already mounted on the north and south sides of the building.
8. The proposed antennas would have a maximum height of 25.3 feet from grade and extend five feet above the height of the existing roof and meets the height restrictions in the Zoning Ordinance put forth for the R-1-5 zoning district.
9. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. This project will not have a significant effect on the environment.
10. The subject site is developed with an existing community college.
11. Single-family detached residential uses, commercial center and open space surround the subject site.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project conforms to the City's General Plan.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project complies with the applicable criteria of the City Council Land Use Policy for Wireless Communications Facilities in that the proposed wireless antennas are in conformance with all of the requirements of the Zoning Ordinance (San Jose Municipal Code section 20.80.1900) and will be mounted on an existing building and are architecturally integrated into the building.
5. The proposed antenna facility is compatible with the surrounding neighborhood.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in

order to integrate said use with the uses in the surrounding areas; and

3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Acceptance of Permit** • Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Payment of Recording Fees.** Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara should be submitted to the Director of Planning within 30 days of approval of this permit, but must be submitted prior to issuance of a Building Permit. Submittal of the recording fee less than one week prior to issuance of a Building Permit will delay the Building Permit issuance for up to one week to allow for recordation of the permit with the County Recorder. This Permit shall be effective at such time when recordation with the County of Santa Clara occurs.
3. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of approval by the Director of Planning, or by the Planning Commission on appeal, granting this Permit, if within such two-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
4. **Conformance with Plans.** Construction and development shall conform to approved development plans

entitled, " Evergreen Valley College, CA-1045A" dated March 28, 2005, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).

5. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
6. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday.
7. **Lighting.** This permit allows no new on-site lighting.
8. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
9. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
10. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP05-011 shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - c. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
10. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
11. **Co-location.** The owner(s) of the proposed antenna facility shall facilitate and encourage permits the co-location of other cellular antennas by unrelated operators within on the project site to the satisfaction of the Director of Planning, Building and Code Enforcement.
12. **Discontinuation of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antennas associated with this permit within 30 days.
13. **Emergency Back-Up Generator.** This permit does not include the approval of an emergency back-up generator on the subject site.

CONDITIONS SUBSEQUENT

1. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.